

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

KIRKWOOD DARNELL CABINESS,)	
Petitioner)	Civil Action No. 7:12cv00625
)	
v.)	<u>FINAL ORDER</u>
)	
HAROLD CLARKE,)	By: Norman K. Moon
Respondent.)	United States District Judge

In accordance with the Memorandum Opinion entered this day, it is hereby **ORDERED** and **ADJUDGED** that respondent's motion to dismiss (Docket No. 9) is **GRANTED**; the above referenced 28 U.S.C. § 2254 petition is **DISMISSED**; and this action is **STRICKEN** from the active docket of the court.

Further, finding that Cabiness has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is **DENIED**.

The clerk is directed to send copies of this Order and the accompanying Memorandum Opinion to Petitioner and counsel for Respondent.

ENTER: this 24th day of July, 2013.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE